

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GERALD SPENCE,

Plaintiff,

v.

B. JOHNSON, et al.,

Defendants.

No. 2:21-cv-0692 AC P

ORDER

Plaintiff, a state prisoner proceeding pro se and in forma pauperis, seeks relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On March 29, 2022, the undersigned screened the complaint, and gave plaintiff the choice to amend or to proceed solely on the claims found suitable for service. ECF No. 8. On April 18, 2022, plaintiff informed the court that he wished to amend the complaint. ECF No. 11. He was given thirty days to do so. ECF No. 12. Thereafter, on May 23, 2022, plaintiff submitted a document indicating that he does not intend to file an amended complaint and that he would like to proceed on the complaint as previously screened by the court. ECF No. 13.

The court construes plaintiff's latest filing as a request to voluntarily dismiss all claims and defendants other than (1) the First Amendment retaliation claims against defendants B. Johnson and E. Garcia, and (2) the Fourteenth Amendment due process claim against defendant

1 B. Johnson. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), the Clerk of Court will
2 be directed to update the docket accordingly.

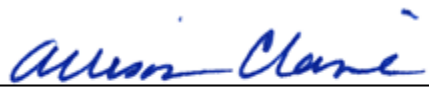
3 Accordingly, IT IS HEREBY ORDERED that:

4 1. Pursuant to plaintiff's notice at ECF No. 13, this case shall proceed on the following
5 claims of the original complaint: (a) the First Amendment retaliation claims against defendants B.
6 Johnson and E. Garcia, and (b) the Fourteenth Amendment due process claim against defendant
7 B. Johnson;

8 2. All other claims, and defendants L. Franco, T. Sisk, B. Kibler, O. Magallanes, H.
9 Moseley, A. Jimenez, and J. Doe Warden are VOLUNTARILY DISMISSED from this action.
10 See Fed. R. Civ. P. 41(a)(1)(A)(i); and

11 3. The Clerk of Court shall update the case caption of the docket in this matter
12 accordingly.

13 DATED: May 31, 2022

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15 ALLISON CLAIRE
16 UNITED STATES MAGISTRATE JUDGE
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